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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/719,326		Karin Loffler	D078 1110	7007

7590 06/13/2003
James F Vaughan
P O Box 725388
Atlanta, GA 31139-9388

EXAMINER

GUARRIELLO, JOHN J

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/13/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/7/93 26	Coffler et al
Examiner	Group Art Unit
John Guarnie/10	1771

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 4/8/2003
- ☒ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-23, 25, 26 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-23, 25, 26 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

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DETAILED ACTION

15. The Examiner acknowledges papers # 12 and 13, the extension of time and the amendment of 4/8/2003.

16. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

17. Rejection is withdrawn because of the amendment to the claim 1.

Claim Rejections - 35 USC § 103

18. Claims 1-23, 25, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vinod et al. 5,747,133 in view of Edinger et al. 5,932,337.

Rejection is maintained substantially as in paper # 11 of 10/4/2002. Applicant's arguments regarding the combination and there is no suggestion to combine has been considered but the Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination, In re Nomiya, 184 USPQ 607 (CCPA 1975). However, there is no requirement

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that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art, *In re Mclaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures, *In re Bozek*, 163 USPQ 545 (CCPA 1969).

Vinod describes a flexible floor covering with several layers, (see abstract). Vinod describes a fabric layer corresponding to the reinforcing material of the claimed invention embedded within the plastic matrix corresponding to the cover layer, (see abstract; figure 1). Vinod describes the fabric may be non-woven and is embedded in the plastic matrix, corresponding to the cover layer of the claimed invention, (column 1, lines 35-46). Vinod describes a flexible wear layer (like a cover layer), (column 2, lines 37-42) may be used. Vinod is silent about the basis weight of the nonwoven reinforcing material and the components of the cover layer.

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Edinger describes a floor covering (see abstract; column 1, lines 5-20) with a planar structure with several layers of which the cover layer (column 3, lines 25-43) is made from a combination of epoxidation products of subesters of polycarboxylic acids with polyethylene glycols, (column 5, lines 15-43).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the components of the cover layer of floor covering of Vinod with the components of the cover layer of Edinger motivated with the expectation that improved properties of wear and decorative appeal would be enhanced as noted by Vinod, column 2, lines 29-39). Regarding the basis weight it would have been obvious to one of ordinary skill in this art to optimize the range of the basis weight since the references describe the components of the floor covering, and it is the Examiner's position that it has been held that discovering the optimum or workable ranges involves only routine skill in the art, In re Aller, 105 USPQ 233, moreover, since the general conditions of the of the claimed invention are

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disclosed and after considering the invention as a whole discovering the range of basis weight would be obvious.

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-308-0661.


Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



John J. Guarriello:gj

Patent Examiner

June 5, 2003



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700